CORRECTED FISCAL NOTE

SB 1322 - HB 1834

May 3, 2007

SUMMARY OF BILL: Increases the penalty for specified crimes of violence committed by persons acting in concert one classification higher than if the defendant had acted alone. Existing Class A felonies committed by persons acting in concert with two or more persons sentenced at the maximum of the range.

ESTIMATED FISCAL IMPACT:

On March 5, 2007, we issued a fiscal note which indicated *an increase in state expenditures of $20,753,000/Incarceration*.*   Based on the additional information provided to us by the Department of Correction, the estimated fiscal impact of this bill is:

(CORRECTED)
Increase State Expenditures - $12,493,100 / Incarceration*

Assumptions:

- The Department of Correction (DOC) estimates that 12 percent of second degree murder, attempted first degree murder, attempted second degree murder, especially aggravated robbery, aggravated robbery, robbery and carjacking crimes were committed while acting in concert with two or more persons.
- In 2006, 182 offenders convicted of second degree murder. Assume 12 percent of those (22) would have been acting in concert with two or more persons and would be sentenced one classification higher.
- Twenty-two persons will be convicted of the Class A felony offense of second degree murder while acting in concert with two or more persons in the first year and will serve additional time on their sentences. According to the U.S. Census Bureau, population growth in Tennessee has averaged 1.09 percent per year for the past 10 years. Population growth will result in three additional persons in the tenth year as a result of this bill. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 25 offenders serving an additional 4.25 years (an increase from 17.0 years to 21.25 years).
- According to DOC, the average operating cost per inmate per day for calendar year 2007 is $60.16. The cost per inmate at 17.0 years is $373,548.48 ($60.16 x 6,209.25 days). The cost per inmate at 21.25 years is $466,961.92 ($60.16 x 7,762 days). The additional cost from increasing

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the average sentence length from 17.0 years to 21.25 years is $93,413.44 ($466,961.92 - $373,548.48). The total additional operating cost for 25 offenders is $2,335,336.00 ($93,413.44 x 25).

- In 2006, 44 offenders were convicted of attempted first degree murder. Assume 12 percent (5) would have been acting in concert with two or more persons and would be sentenced on classification higher. Five persons will be convicted of the Class A felony offense of attempted first degree murder and will serve an additional 1.5 years (an increase from 6.0 years to 7.5 years). Population growth of 1.09 percent per year will result in one additional offender in the tenth year as a result of this bill. The maximum cost is based on six offenders serving additional time on their sentences. The cost per inmate at 6.0 years is $131,840.64 ($60.16 x 2,191.50 days). The cost per inmate at 7.5 years is $164,688 ($60.16 x 2,737.50 days). The additional cost from increasing the average sentence length from 6.0 years to 7.5 years is $32,847.36 ($164,688 - $131,840.64). The total additional operating cost for six offenders is $197,084.16 ($32,847.36 x 6).

- In 2006, 73 offenders were convicted of the Class B felony of attempted second degree murder. Assume 12 percent (9) of those were committed in concert with two or more persons and will be convicted of the Class A felony offense of attempted second degree murder in the first year as a result of this bill. Population growth of 1.09 percent per year will result in one person in the tenth year. The maximum cost in the tenth year is based on 10 offenders. Ten persons will serve an additional 3.6 years (an increase from 2.4 years to 6.0 years). The cost per inmate at 2.4 years is $52,736.26 ($60.16 x 876.60 days). The cost per inmate at 6.0 years is $131,840.64 ($60.16 x 2,191.50 days). The additional cost from increasing the average sentence length from 2.4 years to 6.0 years is $79,104.38 ($131,840.64 - $52,736.26). The total additional operating cost for 10 offenders is $791,043.80 ($79,104.38 x 10).

- In 2006, 27 offenders were convicted of the Class B felony offense of carjacking. Assume 12 percent (3) of those were committed in concert with two or more persons and will be convicted of the Class A felony offense of carjacking. The maximum cost in the tenth year is based on three offenders serving an additional 3.6 years (an increase from 2.4 years to 6.0 years). The cost per inmate at 2.4 years is $52,736.26 ($60.16 x 876.60 days). The cost per inmate at 6.0 years is $131,840.64 ($60.16 x 2,191.50 days). The additional cost from increasing the average sentence length from 2.4 years to 6.0 years is $79,104.38 ($131,840.64 - $52,736.26). The total additional operating cost for three offenders is $237,313.14 ($79,104.38 x 3).

- In 2006, 41 persons were convicted of the Class A offense of especially aggravated robbery. Assume 12 percent (5) of those crimes were committed in concert with two or more persons and will be sentenced one classification higher. Population growth of 1.09 percent per year will result in one additional offender serving an additional 4.25 years (an increase
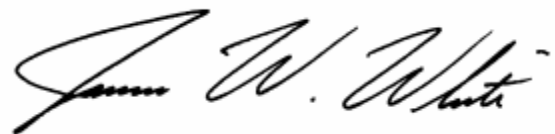
from 17.0 years to 21.25 years) as a result of this bill. The maximum cost in the tenth year is based on 6 offenders. The cost per inmate at 17.0 years is $373,548.48 ($60.16 x 6,209.25 days). The cost per inmate at 21.25 years is $466,961.92 ($60.16 x 7,762 days). The additional cost from increasing the average sentence length from 17.0 years to 21.25 years is $93,413.44 ($466,961.92 - $373,548.48). The total additional operating cost for six offenders is $560,480.64 ($93,413.44 x 6).

- In 2006, 602 persons were convicted of the Class B felony offense of aggravated robbery. Assume 12 percent (72) of those crimes were committed in concert with two or more persons and will be convicted of the Class A felony offense of aggravated robbery. Population growth of 1.09 percent per year will result in eight additional offenders in the tenth year serving an additional 3.6 years (an increase from 2.4 years to 6.0 years) as a result of this bill. The maximum cost in the tenth year is based on 80 offenders serving an additional 3.6 years. The cost per inmate at 2.4 years is $52,736.26 ($60.16 x 876.60 days). The cost per inmate at 6.0 years is $131,840.64 ($60.16 x 2,191.50 days). The additional cost from increasing the average sentence length from 2.4 years to 6.0 years is $79,104.38 ($131,840.64 - $52,736.26). The total additional operating cost for 80 offenders is $6,328,350.40 ($79,104.38 x 80).

- In 2006, 463 persons were convicted of the Class C felony offense of robbery. Assume 12 percent (56) of those crimes were committed in concert with two or more persons and will be convicted of the Class B felony offense of robbery. Population growth of 1.09 percent per year will result in six additional offenders serving an additional 1.5 years as a result of this bill. The maximum cost in the tenth year is based on 62 offenders serving an additional 1.5 years (an increase from 0.9 years to 2.4 years). The cost per inmate at 0.9 years is $19,776.40 ($60.16 x 328.73 days). The cost per inmate at 2.4 years is $52,736.26 ($60.16 x 876.60 days). The additional cost from increasing the average sentence length from 0.9 years to 2.4 years is $32,959.86 ($52,736.26 - $19,776.40. The total additional operating cost for 62 offenders is $2,043,511.32 ($32,959.86 x 62).

*Tennessee Code Annotated, Section 9-4-210, requires that: *For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

James W. White

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James W. White, Executive Director

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